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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,730	07/03/2001	Takashi Yasujima	49275-061	8172

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EXAMINER

FOREMAN, JONATHAN M

ART UNIT

PAPER NUMBER

3736

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/897,730

Applicant(s)

YASUJIMA ET AL.

Examiner

Jonathan ML Foreman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "the upper part" in line 5, and "the lower part" in line 9. There is insufficient antecedent basis for these limitations in the claim.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,280,396 to Clark.

In reference to claim 1, Clark discloses a bioelectrical impedance measuring apparatus (Figure 1) comprising: a housing (12, 14, 16, and 22), rod-like electrode members (24 and 26) having a plurality of electrodes (24a, b and 26a, b) included in the upper part of said housing, a display device (42) having the capability of an operator panel (36) lies between the electrode members (24 and 26). Col. 5, lines 14 – 17 disclose a touch-screen display for use with the apparatus. The apparatus disclosed by Clark also comprises a weighing device (Col. 4, lines 22 - 24) in the lower part of the housing. The housing accommodates: (Figure 4) a current supplying device (32), a voltage measuring device (34) and an arithmetic means (40) for calculating a bioelectrical impedance value from the supplied current value and the measured voltage values.

In reference to claim 2, Clark discloses a bioelectrical impedance measuring apparatus wherein the electrode members (24 and 26) are located at both side edges of the housing (Figure 3).

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*Claim Rejections - 35 USC § 103*

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,280,396 to Clark as applied to claim 1 above, and further in view of U.S. Patent No. 5,817,031 to Masuo et al.

Clark does not disclose the electrode members having a circular shape. However, Masuo et al. discloses a bioelectric impedance measuring device (Figure 1) in which the electrode members (17 – 20) have a circular shape. The term “annular” used to describe the electrodes (Col 4, lines 64 – 67), implies forming a ring, which the examiner takes as a circular shape. One skilled in the art at the time the invention was made would have been motivated to add the annular electrodes as disclosed by Masuo et al. to Clark's apparatus so that the electrodes would be in contact with the palm and fingers of the user no matter how the electrodes are gripped.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,280,396 to Clark.

Figure 5 discloses the use of electrode members shaped like horizontal rods. It would have been obvious to one skilled in the art at the time the invention was made to replace the U-shaped electrodes shown in Figure 3 with the electrodes shown in Figure 5. The electrodes are functionally the same and are therefore interchangeable.

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*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following U.S. Patents have been cited by the examiner to show the current state of the art as applied to a bioelectrical impedance measuring apparatus:

U.S. Patent No. 6,256,532 to Cha

U.S. Patent No. 6,321,112 to Masuo

U.S. Patent No. 6,327,494 to Sakai

U.S. Patent No. 6,400,983 to Cha

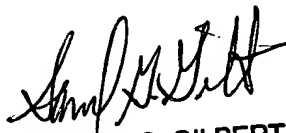
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703)-305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P Shaver can be reached on (703)-308-2582. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-0758 for regular communications and (703)-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0858.



JMLF  
August 8, 2002



**SAMUEL G. GILBERT**  
**PRIMARY EXAMINER**